



**CITY OF SUNNYVALE
REPORT
Administrative Hearing**

July 28, 2004

SUBJECT: **2004-0477:** Application on a 4.2-acre condominium complex located at **893 Rattan Terrace** in an R-0/PD (Low Density Residential/Planned Development) Zoning District (APN: 213-56-022):

Motion **Use Permit** to allow a seven-foot high side yard fence without agreement from the adjoining neighbor.

REPORT IN BRIEF

Existing Site Conditions Condominium

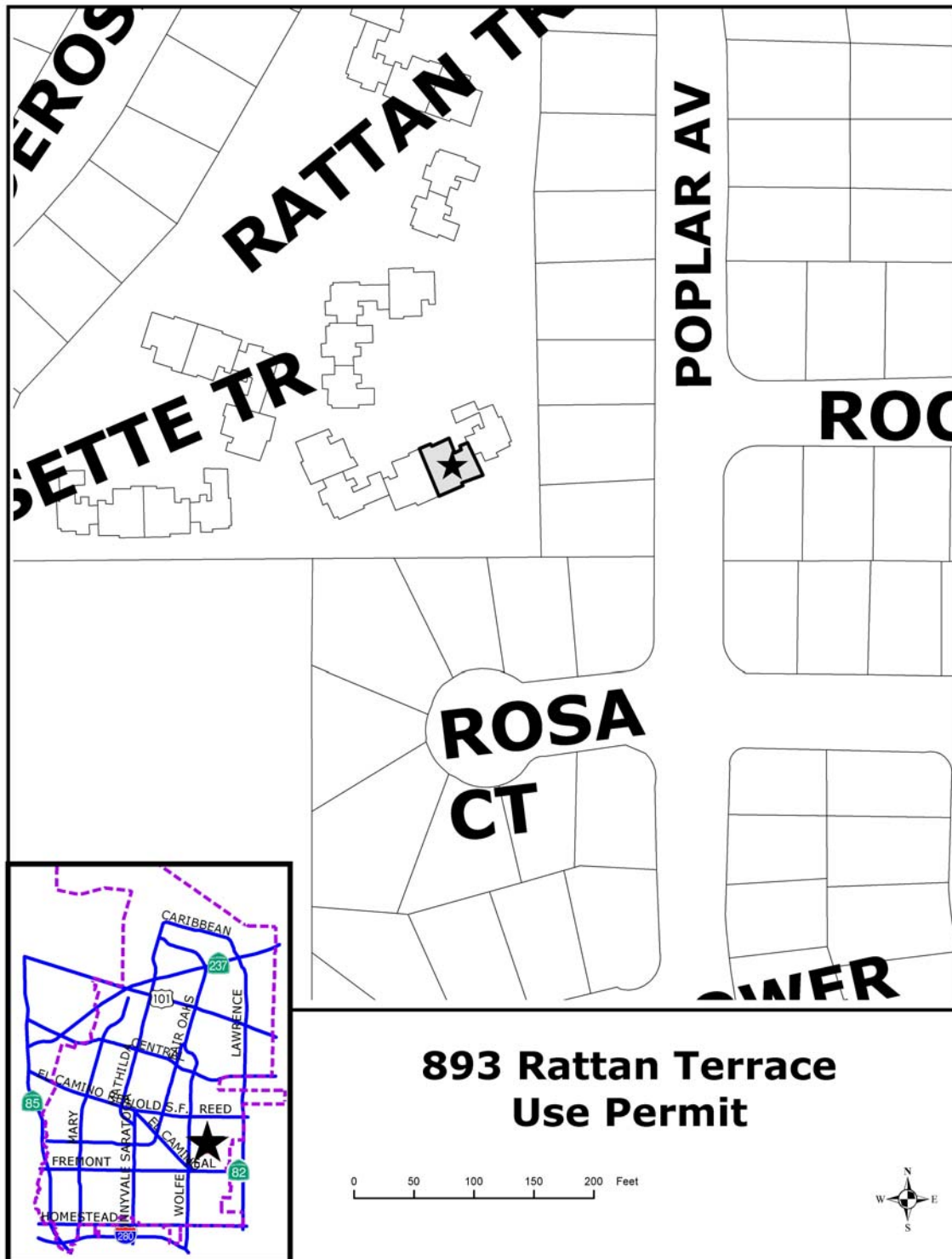
Surrounding Land Uses

North	Condominium
South	Sunken Gardens Golf Course
East	Single-Family Homes
West	Condominium

Issues Appropriate fence height
Privacy concerns

Environmental Status A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Low Density Residential	Same	Low Density Residential
Zoning District	R-0/PD	Same	R-0/PD
Lot Size (s.f.)	4.2 acre site with 23 condominiums	Same	6,000 min.
Fence Height (ft.)	6 ft. on left side 7 ft. on right side	7 ft. on both sides	7 ft. max. with adjoining property owner agreement

ANALYSIS**Background**

This application is the result of a Neighborhood Preservation complaint from the resident to the left of the project site. The proposed fence is currently in existence, and pictures are located in Attachment 6.

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
3962	Develop 23 residential condominiums (The original conditions of approval did not specify an approved fence height.)	City Council Approved	7/24/79

Description of Proposed Project

This project is to permit an existing 7 ft. fence located between two backyards. The fence was installed without required permits or a written agreement from the adjoining neighbor.

Environmental Review

A Class 11 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 11 Categorical Exemptions include construction of accessory structures.

Use Permit

Use: According to the property owner, the proposed 7-foot tall fence is intended to provide additional privacy so that the adjoining neighbor cannot see into their yard and home.

Any side yard fence that is 6-7 ft. tall requires a written agreement from adjoining property owners. As the adjoining property owner does not give this agreement, the project must be reviewed through a Use Permit process. The Homeowner's Association has given their consent (Attachment 5).

Site Layout: The Hidden Valley Condominium development is located on a property that is approximately 15 ft. lower than the surrounding single-family homes and level with Sunken Gardens Golf Course. The rear yards of the subject site have approximately 20-30 ft. of flat ground and then the yards slope up towards the boundary of the development.

An existing 6 ft. tall fence is located on the left yard. Tall shrubs inside the subject property screen most of the area along this fence. The proposed fence starts approximately where the shrubs end and is 1 ft. inside the property, overlapping the existing 6 ft. fence (see Attachment 3 showing the existing Fence 1 and proposed Fence 2). The fence length is approximately 25 ft. long.

Fence Design: The proposed fence is 7 ft. tall with 6 ft. board-on-board and 1 ft. of lattice on top. The fence height varies dependent on the grade, but does not exceed 7 ft., stepping up proportionally with the grade slope at the rear of the yard. The existing fence dies into the backyard slope (see Attachment 3, Side Elevation and Attachment 6, Photos).

Expected Impact on the Surroundings

Neighbor Concerns: Staff has had several discussions with the neighbor regarding her concerns with the fence, which include the visual impacts and shading of her garden. The proposed fence is higher than the current fence and can be seen from the neighbor's property. The fence also has a slightly different design (one foot of lattice on top) as opposed to the existing board-on-board. The neighbor has an elevated garden along the property boundary (see Attachment 6, Photos), and the proposed fence creates additional shadow on the garden. The neighbor wants the fence to be removed.

Staff Discussion: A dispute over a 7 ft. tall side yard fence is unusual. Staff has received only three other Use Permit applications where an adjoining property owner would not sign the fence agreement out of almost 500 Miscellaneous Plan Permit and Use Permit fence applications received since 1995. (Two applications were withdrawn and one was approved at a City Council hearing after two appeals from the neighbor.)

There are two competing values in this project: the desire for privacy vs. possible visual and shadow impacts on adjoining property. Yard privacy is desired by most homeowners, and combinations of screening landscaping and higher fences are used to achieve that goal. Neighbors who disagree with a higher fence typically have concerns regarding aesthetics and shade.

Staff has evaluated the visual and shadow impacts of the fence. The fence is a standard residential design, and with the lattice on top, as well as the additional 1 ft. setback from the yard boundary, staff believes the fence will have minimal shadow effect on the existing garden. As this fence is a typical height, style and location for rear yards, staff is able to make the Findings and recommends approval of the Use Permit.

Findings, General Plan Goals and Conditions of Approval

Staff was able to make the required Findings based on the justifications for the Use Permit.

- Findings and General Plan Goals are located in Attachment 1.
- Conditions of Approval are located in Attachment 2.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Both Planning and Neighborhood Preservation staff has had several conversations with the next door neighbor regarding this application.

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 4 notices were mailed to the adjacent property owners of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Alternatives

1. Approve the Use Permit with conditions.
2. Approve the Use Permit with modified conditions.
3. Deny the Use Permit.

Recommendation

Alternative 1.

Prepared by:

Diana O'Dell
Project Planner

Reviewed by:

Fred Bell
Principal Planner

Attachments:

1. Recommended Findings
2. Recommended Conditions of Approval
3. Site and Architectural Plans
4. Justifications from the Applicant
5. Letter from the Homeowner's Association
6. Photos

Recommended Findings - Use Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the height, and design of the fence are typical of residential fencing designed to provide additional privacy for yard areas and meets the City-Wide Design Guideline policies.

City-Wide Design Guidelines E5. – Privacy fences over 6 ft. high in residential areas shall consist of lattice work for that portion of fence being over 6 ft. high.

The proposed fence meets this guideline with one foot of lattice on top of a 6 ft. board-on-board fence.

2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District because the one-foot setback of the fence combined with the lattice design on top minimizes shadow impacts on the adjoining garden and the design of the fence is of adequate quality that it will not create a negative visual impact.

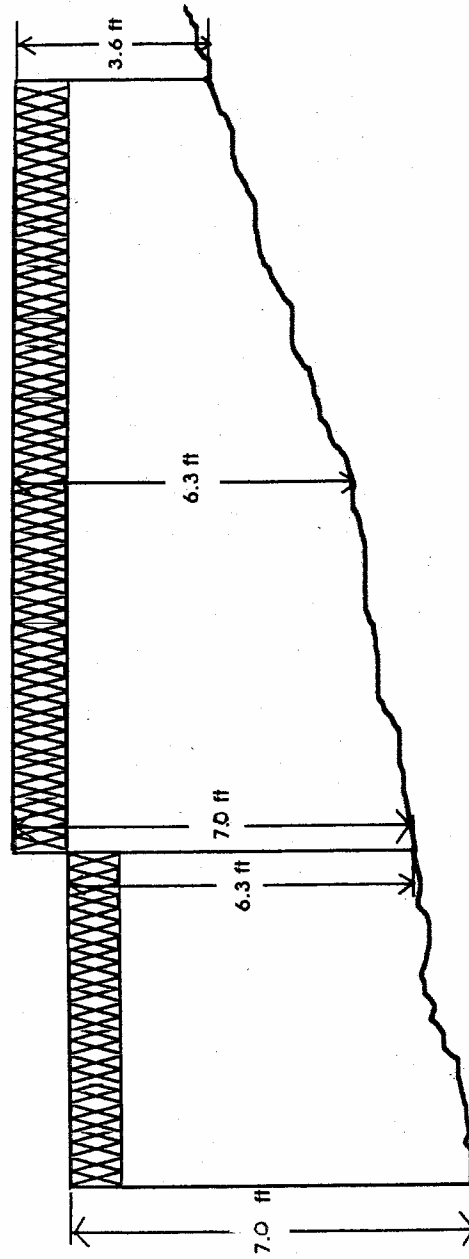
Recommended Conditions of Approval – Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

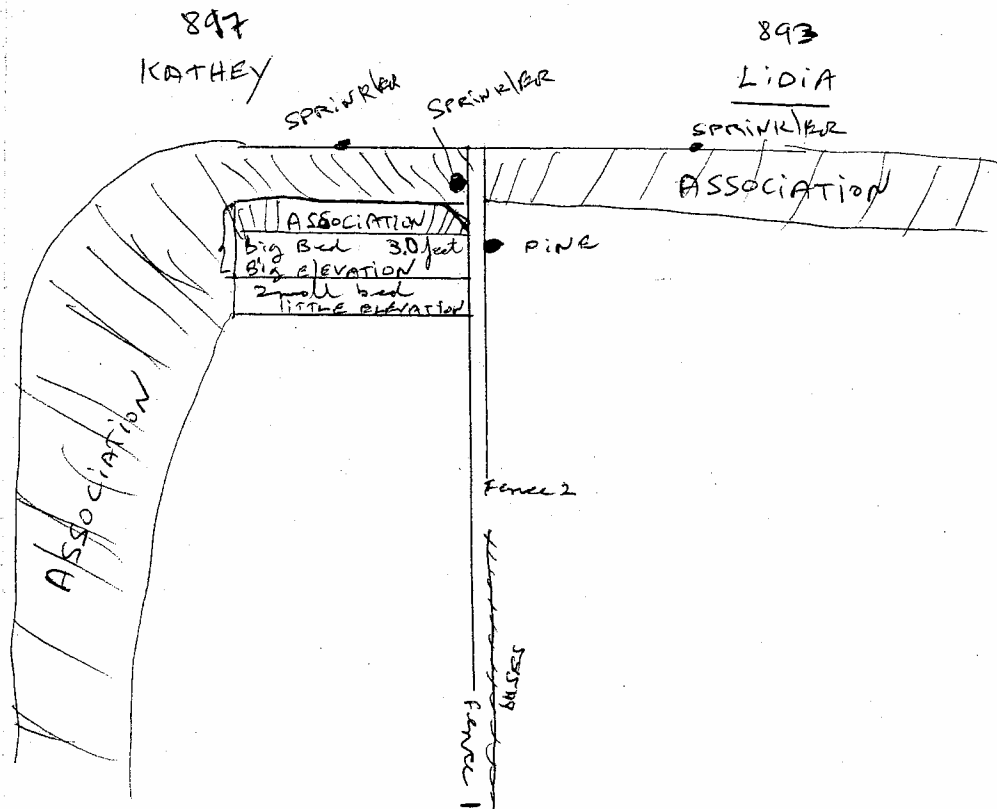
1. The applicant shall obtain a Building Permit for the proposed fence within one month of the date of final approval of the Use Permit.

LYDIA BAROUH'S FENCE



Trellises are 1-foot high; All dimensions shown include the trellises. Fence length is 20 feet.

The Location



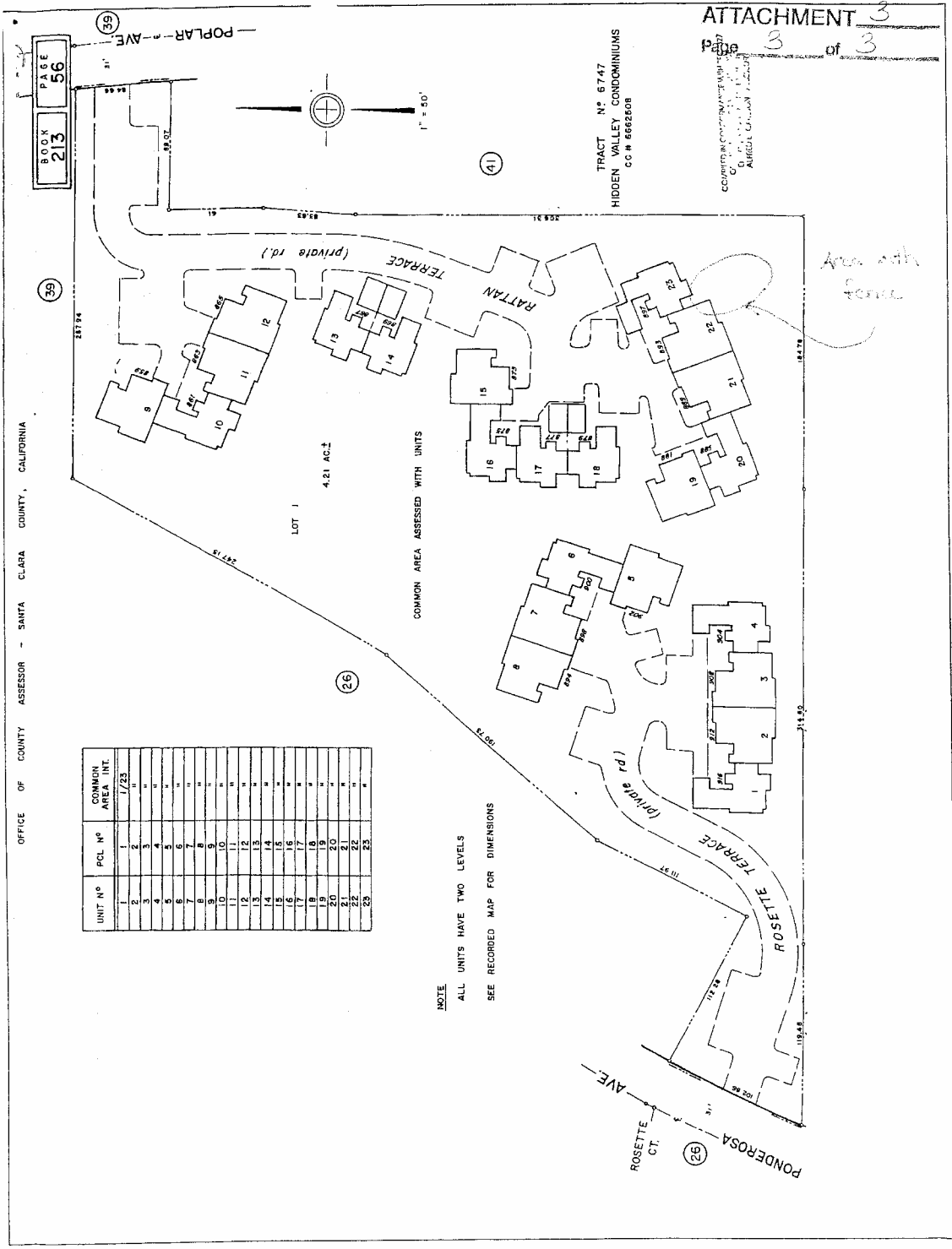
TRACT N° 6747
HIDDEN VALLEY CONDOMINIUMS
CC # 5562508

COPIED IN COMPLIANCE WITH
G. L. c. 270, § 22B
ALFRED CHAMBERLAIN

OFFICE OF COUNTY ASSESSOR - SANTA CLARA COUNTY, CALIFORNIA

UNIT N ^o	PCI N ^o	COMMON AREA INT.
1	1	1/23
2	2	"
3	3	"
4	4	"
5	5	"
6	6	"
7	7	"
8	8	"
9	9	"
10	10	"
11	11	"
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19	19	"
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21	21	"
22	22	"
23	23	"
24	24	"

NOTE
ALL UNITS HAVE TWO LEVELS
SEE RECORDED MAP FOR DIMENSIONS



Use Permit Justifications

1) *Attains the objectives and purpose of the General Plan of the City of Sunnyvale*, by allowing this homeowner a modicum of basic privacy from a neighbor.

2) *Is desirable and not materially detrimental to public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the zoning district.*

Allow the installation of a side yard fence not higher than 7 feet between 893 and 897 Rattan Terrace, Sunnyvale 94086. The neighbor installed the existing good neighbor fence on the property line. I propose to erect a separate three section (two-rail wooden) fence not higher than 7 feet (6 feet plus 1 foot of lattice), located approximately one foot inside our common property line. As both properties have an uphill grade going away from the dwelling, the new fence sections would necessitate a step-up variety with horizontal sections. Its overall length would be approximately 21 to 25 feet.

This method of 7 foot fencing with lattice (on the top) is commonly used on several other adjoining properties.

lbokarius@comcast.net, 5/24, 4 2:37 AM +0000,

ATTACHMENT 5
Page 1 of 1

X-Sieve: CMU Sieve 2.2

From: I

To: lbarouh@stanford.edu

Date: Mon, 24 May 2004 02:37:29 +0000

X-Authenticated-Sender: bGJva2FyaXVzQGNvbWNhc3QubmV0

May 23, 2004

Hi, Lidia,

This is to notify you that current Board completely supports the permission granted to you by the Board in June 2003 "to build a fence between 893 and 897 Rattan Terrace, adding trellis on the top of the solid fence. making its height more than the standard 6' fence".

Sincerely,


L. Bokarius
President, Board of Directors
Hidden Valley Homeowners Association

